

Angel Hernandez asks for a determination of the Court that he (and his lawyers) are free to speak, write and appear publicly criticizing MLB about racial and ethnic discrimination in the game without fear of employment retaliation. Without limiting the foregoing, Angel Hernandez (“Angel”) seeks a determination of the Court that, if he communicates the substance of any or all of the following points outside the judicial process, he cannot be discharged, fined or suffer other retaliation:

1. Each and all of the allegations of Angel’s EEOC complaint against the Office of the Commissioner and MLB Blue, Inc. are true.
2. Each and all of the allegations of Angel’s litigation pleadings and his other filings against the Office of the Commissioner and MLB Blue, Inc. are true.
3. Major League Baseball (“MLB”) discriminates against African Americans, Hispanics, Latinos and other people of color.
4. MLB treats African Americans, Hispanics, Latinos and other people of color as competent to play the game based on their athletic ability, but MLB does not do nearly enough to promote African Americans, Hispanics, Latinos and other people of color to positions of leadership.
5. MLB pays only lip service to preventing discrimination against African Americans, Hispanics, Latinos and other people of color.
6. Many players, former players and other umpires who share Angel’s views keep silent or limit their comments because they fear retaliation from MLB.
7. MLB uses “gag” provisions in its collective bargaining agreements, such as the agreement between the umpire’s union and the umpires, to “chill” open discussion of racial and ethnic discrimination in baseball.
8. For example, the umpire’s union collective bargaining agreement contains the following provision: “an umpire shall not make public statements . . . that are critical of the Commissioner of Baseball, or that otherwise are inimical to the best interests of Major League Baseball.”
9. When Angel asked for permission to speak out against discrimination in baseball without fear of retaliation, he received a response that communicated to him – in substance – that if he spoke out he would do so at his own risk.
10. The copies of the letters to and from Neil Abramson, the attorney for MLB (which he would make public), show what was communicated.
11. MLB uses the “best interests of baseball” standard as a shield and a sword against criticism of baseball’s hiring and promotion practices, as to minorities and as to women.

12. Angel loves baseball in general, and major league baseball in particular, enough to criticize it, so that it can continue to grow and flourish in an increasingly multiracial and multiethnic society.
13. In Angel's view, keeping silent about discrimination in baseball is not in the "best interests of baseball."
14. Angel has filed his lawsuit, and he is speaking out against discrimination, in order to try to bring about fundamental changes in the ways in which MLB and its affiliated entities deal with discrimination.
15. For many years, minority umpires, including Laz Diaz, Alphonso Marquez and Kerwin Danley and Angel himself have been excluded from positions as umpire crew chiefs by MLB.
16. Angel has also been excluded from other advantageous assignments such as the World Series.
17. Minority umpires with qualifications equal to or greater than those of white applicants have been systematically passed over for promotions to crew chief in favor of white applicants.
18. When minority umpires have applied for crew chief positions, MLB has even actively solicited a white applicant, telling him that he *needed* to apply, and then awarding the white applicant the promotion.
19. Angel has spoken out against discrimination in MLB internally, seeking to have minority candidates advanced – even if those minority candidates were individuals *other* than himself; it was only after those private efforts to get a minority umpire promoted that he took the step of filing a lawsuit.
20. Jimmie Lee Solomon, a Dartmouth and Harvard graduate, and a person of color, had tried to change the culture of baseball during the period 2005 through 2010 as an Executive Vice President.
21. Solomon was replaced by Joe Torre in 2010.
22. Subsequent to Joe Torre assuming a leadership position, MLB's conduct in dealing with issues of race, ethnicity and gender has not made progress.
23. Since Torre assumed his current role, MLB has made professional life even harder for minorities in baseball.
24. Media accounts have sometimes portrayed Angel's complaint in the lawsuit as reflecting something personal against Joe Torre: that is not accurate; the complaint simply points out Torre's role as one of the leaders of baseball who is not doing enough to eliminate racial, ethnic and gender discrimination in the game.

25. MLB needs to implement sweeping changes to eliminate racial, ethnic and gender discrimination in baseball, not only as to umpires, but also in all other aspects of the game.
26. Baseball should not be satisfied with a reality in which the players on the field are remarkably different in their race and ethnicity from those who umpire the games, coach them, run the front offices of the teams and run Major League Baseball itself.
27. The first step in resolving any problem is to recognize that there is a problem: therefore Angel calls on MLB to establish an independent committee of stakeholders in the game to study the problem of discrimination in baseball and to make specific recommendations about how to address them.